

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
Writ Petition No.20446 of 2006

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Between:
Mohammed Babar Samiullah Sultan
... Petitioner

And

Kurnool Municipal Corporation,
Kurnool, rep. by its Commissioner
And four others.
... Respondents

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:: ORDER::

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Counsel for the Petitioner: Smt.Lalitha for
Shri O. Manohar Reddy

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September 28, 2006

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Per G.S. Singhvi, CJ

In this petition, the petitioner has prayed for issue of a mandamus to respondent Nos.1 and 2 to take action on the representations made by him for removing the alleged unauthorised constructions made by respondent Nos.3 to 5.

The petitioner claims to be the owner of the property measuring 152 square yards situate in Budhawarpet, Kurnool. He is said to have raised a temporary construction and rented out the same for running a school in the name of Bala Bharathi High School. He has alleged that respondent Nos.3 to 5 have illegally encroached land in Survey Number 740, which belongs to Municipal Corporation, Kurnool (for short, 'the corporation') and have started making construction without obtaining permission from the corporation authorities. His grievance is that despite complaint and representations dated 22-7-2005, 31-7-2006, 8-8-2006 and 19-9-2006 made to the authorities of the corporation in the matter of illegal construction being raised by respondent Nos.3 to 5, the official respondents have not taken any action and if the construction is not stopped, his right to enjoy the property will be jeopardised.

We have heard Smt.Lalitha, learned counsel for the petitioner and perused the record. In our opinion, the petitioner is not entitled to relief in terms of the prayer made because –

- 1) the affidavit filed in support of the writ petition has not been verified as per the requirement of Rule 5 of the Andhra Pradesh High Court Writ Rules, 1977, inasmuch as, instead of identifying the particular paragraphs which are true to his knowledge or information or belief or are based on legal advice, the petitioner has verified all the paragraphs as true to the best of his knowledge, belief, information and based on

legal advice. In the facts and circumstances of this case, this defect in the verification of the affidavit has to be treated as fatal to the cause set up by the petitioner, and

- 2) the petitioner has not produced any tangible material to show his ownership over property measuring 152 square yards situate in Budhawarpet, Kurnool. He has also not produced any tangible evidence to show that respondent Nos.3 to 5 have encroached on the corporation land and are raising illegal construction over it.

For the reasons aforesaid, the writ petition is dismissed. However, liberty is given to the petitioner to make further representation to the authorities of the corporation and produce evidence to substantiate his assertion that respondent Nos.3 to 5 have unauthorisedly encroached the corporation land and are raising construction over it. If he makes such representation and produces evidence, then the concerned authority is expected to take action in accordance with law.

As a sequel to dismissal of the writ petition, W.P.M.P.No.25858 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

September 28, 2006

svs

